

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 1479-04  
Bill No.: Perfected HCS for HB Nos. 504, 505 & 874  
Subject: Domestic Relations; Civil Procedure  
Type: Original  
Date: May 3, 2011

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Bill Summary: This proposal enacts various legislative recommendations by the Attorney General's Task Force on Domestic Violence.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
General Revenue	(Could exceed \$100,000)	(Could exceed \$100,000)	(Could exceed \$100,000)
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>(Could exceed \$100,000)</b>	<b>(Could exceed \$100,000)</b>	<b>(Could exceed \$100,000)</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

Numbers within parentheses: ( ) indicate costs or losses.  
This fiscal note contains 8 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
<b>Total Estimated Net Effect on FTE</b>	<b>0</b>	<b>0</b>	<b>0</b>

☒ Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

☒ Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

## FISCAL ANALYSIS

### ASSUMPTION

Officials from the **Office of the State Courts Administrator** assume the proposal would not fiscally impact the courts.

Officials from the **Attorney General's Office** assume that any potential costs arising from this proposal can be absorbed with existing resources.

Officials from the **Department of Public Safety - Highway Patrol** and the **Office of Prosecution Services** each assume the proposal would not have a fiscal impact to their respective agencies.

For the purpose of this proposed legislation, officials at the **Office of State Public Defender (SPD)** cannot assume that existing staff will provide competent, effective representation for any new cases arising where indigent persons are charged with the enhanced penalties for violating an ex parte order of protection or full order of protection within five years of the date of the subsequent violation, in which case the subsequent violation would be charged as a class D felony.

Passage of bills increasing penalties on existing crimes, or creating new crimes, requires the State Public Defender System to further extend resources. While the number of new cases (or cases with increased penalties) may be too few or uncertain to request additional funding for this specific bill, the SPD will continue to request sufficient appropriations to provide competent and effective representation in all its cases.

**Oversight** assumes the SPD can absorb the additional caseload that may result from this proposal.

Officials from the **Office of the Secretary of State (SOS)** assume many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to the Secretary of State's Office for Administrative Rules is less than \$2,500. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, we also recognize that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what our office can sustain with our core budget. Therefore, we reserve the right to request

ASSUMPTION (continued)

funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

In response to a previous version of this proposal, officials from the **Department of Social Services - Division of Youth Services (DOSS-DYS)** viewed the statutory revisions as primarily being technical language and process improvement and do not present substantive changes that will fiscally impact the Division.

Currently, youth committed to the DOSS-DYS with allegations of domestic abuse present placement challenges upon community re-entry. Foster home or contractual placements are sometimes required for those youth. However, the division does not anticipate an increase in such referrals as a result of this legislation. Therefore, DOSS-DYS anticipates no fiscal impact.

In response to a previous version of this proposal, officials from the **Department of Social Services - Children's Division** stated the changes in this bill would make available to more child victims of abuse and domestic violence protections provided by ex parte and full orders of protection, which could be helpful in assuring safety and developing safety plans in child abuse cases. However, the Children's Division does not anticipate a significant fiscal or programmatic impact.

Officials from the **Department of Corrections (DOC)** this bill proposes to enact various legislative recommendations by the Attorney General's Task Force on Domestic Violence. The penalty provision component of this bill resulting in potential fiscal impact for DOC, is for up to a class D felony.

Pursuant to proposed §455.549 the Division of Probation and Parole (P&P) would be required to establish a Batterer Intervention Program (BIP). The potential exists for significant fiscal impact if all cases are assigned to P&P. Additional staff will be required dependent on the rules promulgated for the assessment of the offenders and monitoring of the credentialing process.

Pursuant to current law, in FY10 there were 12 offenders sentenced for violation of a full protection order with 8 receiving a prison sentence and 4 receiving probation. Expansion of the penalty provisions (when priors exist) due to passage of this bill will have a fiscal impact for the DOC.

Currently, the DOC cannot predict the number of new commitments which may result from the expansion of the offense(s) outlined in this proposal. An increase in commitments depends on the utilization by prosecutors and the actual sentences imposed by the court.

ASSUMPTION (continued)

If additional persons are sentenced to the custody of the DOC due to the provisions of this legislation, the DOC will incur a corresponding increase in direct offender cost either through incarceration (FY10 average of \$16.397 per offender, per day, or an annual cost of \$5,985 per inmate) or through supervision provided by the Board of Probation and Parole (FY10 average of \$3.92 per offender, per day or an annual cost of \$1,431 per offender).

In summary, supervision by the DOC through probation or incarceration would result in additional costs to the department and the exact fiscal impact is unknown, but could exceed \$100,000.

House Amendment 1 (and House Amendment 2);

Section 589.683 - removes sunset date on the Address Confidentiality Program:

In response to a similar proposal from this year (Perfected SS#2 for SCS for SB 320), officials from the **Office of the Secretary of State** assumed this part of the proposal would not have a fiscal impact.

**Oversight** assumes that without the changes in this proposal, the Address Confidentiality Program would expire on August 28, 2013, and the state would realize savings. Since the program will be extended indefinitely with this proposal, Oversight will reflect a continuance of the current cost of the program. In the enabling legislation (HB 583 in 2007), the SOS assumed the need for a Program Manager (at \$48,000 per year) to administer the program. Oversight will reflect ten months of impact from this FTE for the time past August 28, 2013 that is within the scope of this fiscal note.

<u>FISCAL IMPACT - State Government</u>	FY 2012 (10 Mo.)	FY 2013	FY 2014
<b>GENERAL REVENUE</b>			
<u>Costs - Department of Corrections</u>			
Incarceration / probation costs / court appointed batterer intervention program for offenders costs of this proposal (Section 455.549)	(Could exceed \$100,000)	(Could exceed \$100,000)	(Could exceed \$100,000)
<u>Costs - Department of Corrections</u>			
Incarceration / probation costs for offenders of this proposal - up to D felony (Sections 455.538 & 565.074)	(Less than \$100,000)	(Less than \$100,000)	(Less than \$100,000)
<u>Costs - Office of the Secretary of State</u> for the removal of the sunset date in Section 589.683 (HA1 & HA2)			
Personal Service (1 FTE continued)	\$0	\$0	(\$40,000)
Fringe Benefits	<u>\$0</u>	<u>\$0</u>	<u>(\$20,936)</u>
<u>Total Costs - SOS</u>	<u>\$0</u>	<u>\$0</u>	<u>(\$60,936)</u>
<b>ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND</b>	(Could exceed <u>\$100,000</u> )	(Could exceed <u>\$100,000</u> )	(Could exceed <u>\$100,000</u> )
Estimated Net FTE Change for General Revenue	0 FTE	0 FTE	1 FTE
 <u>FISCAL IMPACT - Local Government</u>	 FY 2012 (10 Mo.)	 FY 2013	 FY 2014
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

### FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

### FISCAL DESCRIPTION

This bill changes the laws regarding domestic violence and orders of protection. In its main provisions, the bill:

- (1) Requires the court to transfer a case to juvenile court for a hearing on a full order of protection if an ex parte order is entered and the respondent is younger than 17 years of age;
- (2) Allows a court upon a finding that it is in the best interest of the parties to include a provision in a full order of protection with a duration of one year that the order must automatically renew unless the respondent requests a hearing within 30 days of the expiration of the order;
- (3) Requires the court to cause a copy of any objection filed by the respondent and a notice of the date set for the hearing on that objection to an automatic renewal of a full order of protection with a duration of one year to be personally served upon the petitioner by a personal process server, sheriff, or police officer at least three days prior to the hearing. This service of process must take priority over service in all other actions except those of a similar emergency nature;
- (4) Specifies that before a court terminates any order of protection, it can examine the circumstances of the motion to dismiss the order and may inquire of the petitioner or other persons in order to assist the court in determining if dismissal is voluntary;
- (5) Specifies that a respondent in violation of the terms and conditions of an order of protection will be guilty of a class A misdemeanor for entering a petitioner's place of employment or school or for being within a certain distance of the petitioner or a child of the petitioner. If a respondent has previously pleaded guilty to or been found guilty of violating an order of protection within five years of the date of the subsequent violation, he or she will be guilty of a class D felony. Evidence of a prior plea of guilty or finding of guilt must be heard by the court out of the presence of the jury. If the court finds the existence of a prior plea of guilty beyond a reasonable doubt, the court must decide the extent or duration of sentence or other disposition and cannot instruct the jury regarding the range of punishment or allow the jury to assess punishment as part of its verdict;
- (6) Requires a municipal court to transfer to the circuit court any case where a respondent has previously violated an order of protection;

FISCAL DESCRIPTION (continued)

(7) Specifies that any person who has pled guilty to or been found guilty of any offense committed in violation of any county or municipal ordinance in any state or any state, federal, or military law which, if committed in Missouri, would be chargeable or indictable as third degree domestic assault will be guilty of a class D felony for the third or any subsequent commission of the crime of domestic assault; and

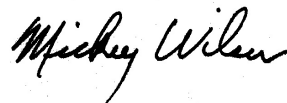
(8) Section 455.549 requires the Division of Probation and Parole within the Department of Corrections in consultation with the Statewide Domestic Violence Coalition to establish standards and to adopt a credentialing process for any court-appointed batterer intervention program.

(9) Section 589.683 removes the Address Confidentiality Program (under the Office of the Secretary of State) from sunset provisions.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of the Attorney General  
Office of the State Courts Administrator  
Department of Social Services  
Department of Public Safety  
Office of the State Public Defender  
Department of Corrections  
Office of Prosecution Services  
Office of the Secretary of State



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